IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO.586 OF 2006

In

CRIMINAL APPEAL NO.533 OF 2006

1. Jamnaprasad Mahavir Upaddhyay
2. Vijay Ramlot Sharma : Applicants
(Orig. Accused)

V/s.

The State of Maharashtra : Respondent

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Mr.S.S.Butala for the applicants.

Mrs.A.S.Pai, Addl. Public Prosecutor for the State.

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CORAM : D.G.DESHPANDE & S.A.BOBDE,JJ.

DATE : AUGUST 3, 2006.

P.C.

1. Heard the Advocate for the applicants and the learned Addl. Public Prosecutor for the State.

2. Both the applicants-accused have been convicted under section 302 read with section 34 of the Indian Penal Code for causing death of the victim Ravindra. Ravindra had lodged N.C. with the police, a copy of which was shown. In that N.C., what is written is that he was assaulted with fist blows and kicks. The case of the prosecution is

assault by hockey sticks. According to the learned counsel for the applicants, this is an improvement. Secondly, according to him, even though the deceased was alive for six days after the assault, his dying declaration was not recorded through the S.E.M.

3. The learned Addl. Public Prosecutor states that there are three oral dying declarations and those witnesses were examined. But admittedly there is no eye-witness evidence. Further both the accused were on bail during trial. Accused no.1 is 53 years old.

4. In view of these facts, the applicant-accused Jamnaprasad Mahavir Upaddhyay and Vijay Ramlot Sharma be released on bail on P.R. bond of Rs.10,000/- (Rupees Ten Thousand only) each with one or two sureties in the like amount. They should attend Kapurbawadi police station once in two months, till the appeal is disposed of. Their substantive sentence is suspended pending the appeal. Fine if any, should be paid before they are released on bail.

5. The Criminal Application stands disposed of.

D.G. DESHPANDE, J.

S.A. BOBDE, J.